

*Non-conformity* means an observed situation where objective evidence indicates the non-fulfillment of a specified requirement.

*Major non-conformity* means an identifiable deviation which poses a serious threat to personnel or vessel safety or a serious risk to the environment and requires immediate corrective action; in addition, the lack of effective and systematic implementation of a requirement of the ISM Code is also considered a major non-conformity.

*Objective Evidence* means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified.

*Officer In Charge, Marine Inspection (OCMI)* means the U.S. Coast Guard officer as described in 46 CFR 1.01-15(b), in charge of an inspection zone described in 33 CFR part 3, or that person's authorized representative.

*Recognized organization* means an organization which has applied and been recognized by the Commandant of the Coast Guard to meet the minimum standards of 46 CFR part 8, subparts A and B.

*Responsible person* means—

(1) The owner of a vessel to whom this part applies, or

(2) Any other person that—

(i) has assumed the responsibility from the owner for operation of the vessel to which this part applies; and

(ii) agreed to assume, with respect to the vessel, responsibility for complying with all the requirements of this part.

(3) A responsible person may be a company, firm, corporation, association, partnership or individual.

*Safety management audit* means a systematic and independent examination to determine whether the safety management system activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.

*Safety Management Certificate* means a document issued to a vessel which signifies that the responsible person or its company, and the vessel's shipboard management operate in accordance

with the approved safety management system.

*Safety Management System* means a structured and documented system enabling Company and vessel personnel to effectively implement the responsible person's safety and environmental protection policies.

*SOLAS* means the International Convention for the Safety of Life at Sea, 1974, as amended.

*Vessel engaged on a foreign voyage* means a vessel to which this part applies that is—

(1) Arriving at a place under the jurisdiction of the United States from a place in a foreign country;

(2) Making a voyage between places outside the United States; or

(3) Departing from a place under the jurisdiction of the United States for a place in a foreign country.

#### § 96.130 Incorporation by reference.

(a) The Director of the Federal Register approves certain material that is incorporated by reference into this subpart under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the FEDERAL REGISTER and the material must be available to the public. You may inspect all material at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Office of Design and Engineering Standards (G-MSE), 2100 Second St., SW., Washington, DC 20593-0001, and receive it from the source listed in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subpart and the sections affected are as follows:

*American National Standards Institute (ANSI)*—11 West 42nd St., New York, NY 10036.

ANSI/ASQC Q9001-1994, Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994—96.430

*International Maritime Organization IMO*—4 Albert Embankment, London, SE1 7SR, United Kingdom.

Resolution A.741(18), International Management Code for the Safe Operation of Ships and for Pollution Prevention, November 4, 1993—96.220, 96.370

Resolution A.788 (19), Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations, November 23, 1995—96.320, 96.440

Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, November 4, 1993—96.440

### **Subpart B—Company and Vessel Safety Management Systems**

#### **§ 96.200 Purpose.**

This subpart establishes the minimum standards that the safety management system of a company and its U.S. flag vessel(s) must meet for certification to comply with the requirements of 46 U.S.C. 3201-3205 and Chapter IX of SOLAS, 1974. It also permits companies with U.S. flag vessels that are not required to comply with this part to voluntarily develop safety management systems which can be certificated to standards consistent with Chapter IX of SOLAS.

#### **§ 96.210 Who does this subpart apply to?**

(a) This subpart applies—

- (1) To a responsible person who owns or operates a U.S. vessel(s) engaged on a foreign voyage which meet the conditions of paragraph (a)(2) of this section;
- (2) To all U.S. vessels engaged on a foreign voyage that are—

(i) A vessel transporting more than 12 passengers; or

(ii) A tanker, a bulk freight vessel, a freight vessel or a self-propelled mobile offshore drilling unit (MODU) of 500 gross tons or more; and

(3) To all foreign vessels engaged on a foreign voyage, bound for ports or places under the jurisdiction of the U.S., and subject to Chapter IX of SOLAS.

(b) This subpart does not apply to—

- (1) A barge;
- (2) A recreational vessel not engaged in commercial service;
- (3) A fishing vessel;
- (4) A vessel operating only on the Great Lakes or its tributary and connecting waters; or
- (5) A public vessel, which includes a U.S. vessel of the National Defense Reserve Fleet owned by the U.S. Maritime Administration and operated in non-commercial service.

(c) Any responsible person and their company who owns and operates a U.S. flag vessel(s) which does not meet the conditions of paragraph (a), may voluntarily meet the standards of this part and Chapter IX of SOLAS and have their safety management systems certificated.

(d) The compliance date for the requirements of this part are—

(1) On or after July 1, 1998, for—

(i) Vessels transporting more than 12 passengers engaged on a foreign voyage; or

(ii) Tankers, bulk freight vessels, or high speed freight vessels of at least 500 gross tons or more, engaged on a foreign voyage.

(2) On or after July 1, 2002, for other freight vessels and self-propelled mobile offshore drilling units (MODUs) of at least 500 gross tons or more, engaged on a foreign voyage.

#### **§ 96.220 What makes up a safety management system?**

(a) The safety management system must document the responsible person's—

(1) Safety and pollution prevention policy;

(2) Functional safety and operational requirements;

(3) Recordkeeping responsibilities; and

(4) Reporting responsibilities.

(b) A safety management system must also be consistent with the functional standards and performance elements of IMO Resolution A.741(18).

#### **§ 96.230 What objectives must a safety management system meet?**

The safety management system must:

(a) Provide for safe practices in vessel operation and a safe work environment onboard the type of vessel the system is developed for;

(b) Establish and implement safeguards against all identified risks;

(c) Establish and implement actions to continuously improve safety management skills of personnel ashore and aboard vessels, including preparation for emergencies related to both safety and environmental protection; and

(d) Ensure compliance with mandatory rules and regulations, taking into